

Advisory opinions for political finance oversight institutions

Please click the name of each institution to access the document relevant information can be found.

Federal Election Commission in the US

Advisory opinions are official Commission responses to questions about how federal campaign finance law applies to specific, factual situations.

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Advisory opinions can answer questions about:

- The *Federal Election Campaign Act*, which is codified in Title 52 of the U.S. Code, Sections 30101-30146.
- The laws about public financing of presidential campaigns and conventions, which are codified in Title 26 of the U.S. Code, Chapters 95 and 96.
- The Commission's regulations, which are codified at Title 11 of the Code of Federal Regulations.

An advisory opinion provides certain legal protections to any person who:

- Is involved in the activity involved in the issued advisory opinion, or
- Engages in activity that is "indistinguishable in all its material aspects" from the activity about which the advisory opinion is issued, and
- Acts in good faith in accordance with the opinion.

All advisory opinion requests are made available in the FEC's Public Records room but are also available online, along with comments, drafts and final opinions.

<https://www.fec.gov/data/legal/advisory-opinions/>

Requesting an advisory opinion

Anyone may request an advisory opinion, as long as the requestor is affected by the question he or she presents. A requestor cannot ask for an advisory opinion about someone else's activities, hypothetical situations, or general questions of law.

Advisory opinion requests must be in writing. The request must include a complete description of all facts relevant to the specific transaction or activity.

Within ten days of receiving the request, the Commission's Office of General Counsel must determine whether it qualifies as a complete advisory opinion request.

A request does not qualify as a complete advisory opinion request if it:

- Asks a general question of interpretation.
- Asks about a hypothetical situation.
- Asks about the activities of someone other than the requestor.
- Asks about past activities that the requestor does not plan to continue in the future.
- Does not contain all of the factual information relevant to the activity that is the subject of the request.

If the request does not qualify as an advisory opinion request, the Office of General Counsel notifies the requestor of the specific deficiencies in the request.

If the request qualifies as an advisory opinion request, it is assigned an AOR number and made public. The FEC discusses and votes on advisory opinions in public meetings which are streamed live on the Web.

ELECTIONS CANADA – ADVISORY OPINIONS

What is the legal basis for written opinions, guidelines and interpretation notes?

Section 16.1 of the *Canada Elections Act* requires Elections Canada to issue guidelines and interpretation notes on the application of the Act to registered parties, registered associations, nomination contestants, candidates and leadership contestants. Elections Canada issues guidelines and interpretation notes at its discretion or on application by the chief agent of a registered party.

Section 16.2 of the Act requires Elections Canada to issue written opinions on the application of any provision of the Act to an activity or practice that a registered party, registered association, nomination contestant, candidate or leadership contestant of a registered party proposes to engage in. Elections Canada issues these opinions on application by the chief agent of a registered party.

What is the process for requesting a written opinion, guideline or interpretation note?

Requests must be submitted by the chief agent of the registered party using the [online form](#).

The request must include the following information:

- chief agent's name and contact information
- name of the registered party
- complete description of the question and all facts relevant to the application

Why would a request be rejected by Elections Canada?

Elections Canada would reject an application if:

- it was not submitted by the chief agent of a registered party
- it was not related to the application of the *Canada Elections Act*
- it was not related to an activity that the registered party or one of its affiliated political entities proposed to engage in

What happens to a request after it is submitted to Elections Canada?

[IFES Political Finance Implementation Toolkit](#)

When Elections Canada receives a request, it will assess it to determine whether or not it includes enough information for a written opinion, guideline or interpretation note to be provided. If clarification or more information is needed, Elections Canada will contact the applicant within five business days. Once the application is complete, it will be assigned an application number and made public on Elections Canada's website.

Can a request be withdrawn? Once a request has been made public on Elections Canada's website, it cannot be withdrawn.

Who else may initiate guidelines and interpretation notes?

Elections Canada may also initiate guidelines and interpretation notes. The process for issuing them is essentially the same as for those requested by a registered party.

How and when can parties comment on a proposed written opinion, guideline or interpretation note?

Elections Canada will provide proposed written opinions, guidelines and interpretation notes to members of the Advisory Committee of Political Parties for comment. After the notice is sent, comments must be submitted within 30 days for a written opinion or within 45 days for a guideline or interpretation note. All comments will be made public on Elections Canada's website. Before finalizing a written opinion, guideline or interpretation note, the agency will take into consideration any comments received.

When are written opinions, guidelines and interpretation notes published?

The *Canada Elections Act* requires that written opinions requested by a registered party be made public on Elections Canada's website within 90 days after the request date. However, if this 90-day period overlaps with the election period for a general election (from the day an election is called until election day), the written opinion must be published within 90 days after election day. Guidelines and interpretation notes are published as soon as possible after they are prepared.

Written opinions take effect 30 days from their publication date, while guidelines and interpretation notes take effect upon publication.

What is the effect of a written opinion, guideline or interpretation note?

Written opinions provide a certain protection to political entities since they are binding on Elections Canada and the Commissioner of Canada Elections. They remain binding as long as the material facts on which the opinion was based have not changed; the activity or practice is carried out substantially as proposed; and a contrary interpretation has not been subsequently issued by way of a guideline, interpretation note or written opinion.

Guidelines and interpretation notes are for information purposes only. They are not binding on political entities.

[Standard advisory opinion closing paragraph -US FEC](#)

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. See 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific



transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See id.* § 30108©(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission’s website. <https://www.fec.gov/files/legal/aos/2021-04/2021-04.pdf>